

AMENDMENTS TO UNDERTAKINGS

Royal Cornwall Hospitals NHS Trust (the Trust)
Treliske
Truro
TR1 3LJ

In this document, NHS Improvement means the National Health Service Trust Development Authority.

TDA Directions means the National Health Service Trust Development Authority Directions and Revocations and the Revocation of the Imperial College Healthcare National Health Service Trust Directions 2016.

The Trust and NHS Improvement have agreed the following variations to the terms of the Undertakings originally accepted from the Trust by NHS Improvement on 4 April 2019:

1. After paragraph 2.2.6 of the 'Issues and need for action' section, insert the following paragraphs:

2.2.7 Following an independent report in relation to governance within the Trust there are reasonable grounds to suspect that there may have been:

- a) decisions made inappropriately outside of agreed governance processes and structures*
- b) decisions made in the interests of individuals identified in the report rather than in accordance with Trust policy*
- c) decisions made being potentially ultra vires*
- d) potential loss of funds; and*
- e) decisions made outside of the authority of individuals.*

2.2.8 In September 2020, the Trust appointed an interim consultancy support at senior level and in breach of the consultancy cap without prior reference to NHS England and NHS Improvement, the Department of Health and Social Care and HM Treasury guidance.

2.2.9 On 21 December 2020, served notice under section 29A Health and Social Care Act 2008 in respect of the quality of health care being provided requiring significant improvement, specifically in relation to the management of Never Events.

2. After paragraph 10.2 of the Undertakings, insert the following paragraph:

10.3 The Trust will follow up the findings of the Freedom to Speak Up Report and ensure further investigation is undertaken and appropriate action is taken in accordance with the Trust's internal policies and procedures. This will include, if necessary, the commissioning of a fit and proper persons review of the individuals cited in the report.

10.4 *The Trust will ensure any breaches of policy and/or procedure are dealt with in accordance with the Trust's processes, including any issues that arise from any subsequent relevant reviews or reports with appropriate corrective action taken.*

10.5 *The Trust will revisit the Governance Review commissioned in 2019 and undertake a further review of the issues raised in the recent report, including, but not limited to:*

- a) the role and function of Board members, identifying any support and development needs as a whole when assessed against established best practice;*
- b) to develop and implement a governance improvement plan which will be monitored and include a personalised development plan for each board member*
- c) provide assurance and evidence to NHS Improvement that the Trust's; governance processes are effective and fit for purpose and that any shortcomings identified in any review are quickly remedied;*
- d) ensuring the Remuneration Committee will, with external advice and support, review any incorrect payments and awards and decide on an appropriate course of action to recover monies as appropriate;*
- e) immediately appointing an independent executive director and other senior advisors deemed necessary in consultation with NHS Improvement to oversee the review of, and actions necessary to address, the identified shortcomings in governance. The independent executive director should be unconnected with the local system. These appointments will be formally agreed by NHS Improvement; and appointed within a timescale agreed by NHS Improvement.*
- f) immediately appointing an experienced Lay Advisor to the Board to provide advice and support to the Chair and Senior Independent Director and to provide assurance to NHS Improvement that the response to the governance issues identified are being dealt with appropriately. This appointment should only be made with the agreement of NHS Improvement;*
- g) continuing to seek and have regard to expert legal advice on these matters;*
- h) agreeing the terms of reference for commissioning of each of the areas of review above with and overseen by NHS Improvement;*
- i) ensuring the reviews referenced above are undertaken in a timely matter and within a timeframe agreed with NHS Improvement; and*
- j) implementing the recommendations of each of the areas of review above within a reasonable timeframe as agreed with NHS Improvement.*

These variations are agreed pursuant to the powers exercisable by NHS Improvement under or by virtue of the National Health Service Act 2006 and the TDA Directions.

All other terms of the original Undertakings accepted from the Trust by NHS Improvement on 4 April 2019 remain unchanged.

Signed on of behalf of the Trust

Signed on of behalf of NHS Improvement

Name: Dr Mairi McLean

Name: Mark Cooke

Position: Chairwoman

Position: Director of Strategy & Transformation

Signature: 

Signature: 

Date: 2nd March 2021

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